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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,644	12/02/2003	Gregory L. Todt	9820S-000002/DVB	4528

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EXAMINER

ROSSI, JESSICA

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/725,644

Applicant(s)

TODT, GREGORY L.

Examiner

Jessica L. Rossi

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/22/06, Amendment.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-20 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) 20 and 38-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19, 34-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the amendment dated 3/22/06. Claims 14-20 and 34-42 are pending but claims 20 and 38-42 remain withdrawn from further consideration.

### ***Election/Restrictions***

2. Applicant's election of Group I, claims 14-19 and 34-37, in the reply filed on 3/22/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election **without traverse** (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention..

4. Claim 19 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 19, it recites the limitation "said stretchable film" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. It is suggested to delete "stretchable" between "said" and "film."

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 14-15 and 34-35 stand rejected under 35 U.S.C. 102(b) as being anticipated by Todt (WO 96/11804, of record).

With respect to claim 14, Todt teaches a method of manufacturing a material for protecting surfaces comprising the steps of providing a shrinkable film 12 having a pre-determined shrink response when heat is applied thereto and a nonwoven fabric 14 having raised portions, applying an adhesive to at least one of said film or nonwoven fabric in a predetermined pattern defining first areas bearing the adhesive in the pattern (raised portions of nonwoven; p. 5, lines 2-6) and second areas substantially larger than the first areas extending between the pattern of the first areas bearing the adhesive (non-raised portions of nonwoven; p. 5, lines 2-6), and adhering the nonwoven fabric and film together by said adhesive such that the adhesive occurs substantially along the raised portions of the nonwoven fabric (Figure 1; abstract; p. 4, lines 17-22; p. 5, lines 2-18; p. 6, lines 12-25).

Regarding claim 15, Todt teaches the adhesive being a hot melt adhesive (p. 2, lines 16-18) and the nonwoven fabric being adhered to said film by pressing the film and nonwoven fabric together with limited pressure (p. 6, lines 17-20).

With respect to claim 34, all the limitations were addressed above with respect to claim 14 except applying the adhesive to the nonwoven. Todt teaches such (p. 5, lines 1-4; p. 6, lines 12-15).

Regarding claim 35, Todt teaches the adhesive being a pressure responsive adhesive and the nonwoven being adhered to the film by pressing the film and nonwoven together (p. 2, lines 16-18; p. 6, lines 12-20).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 16-19 and 36-37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Todt as applied to claims 14 and 34 above and further in view of the collective teachings of Ankuda et al. (US 6638605, of record) and Woods et al. (US Re 36601, of record).

Regarding claims 16 and 36-37, Todt does not disclose any specifics with regards to the adhesive applicator and therefore it is unclear as to whether the adhesive applicator of Todt satisfies the claimed limitations.

Todt discloses that the adhesive is only applied to the raised portions of the nonwoven fabric thereby creating adhesive and non-adhesive areas on the nonwoven (p. 5, lines 2-6), which clearly reads on Applicant's claimed 'predetermined pattern.' However, one reading Todt as a whole would have readily appreciated that the reference is not concerned with a particular adhesive applicator for forming the predetermined pattern.

Therefore, it would have been obvious to one of ordinary skill in the art to select an applicator, such as a gravure roll and doctor blade as set forth in the present claims, that deposits adhesive on only certain areas of a substrate such that a predetermined pattern comprising adhesive and non-adhesive areas is formed because such an applicator is well known and conventional in the art, as taught by the collective teachings of Ankuda (Figures 6-7; column 10, lines 54-60; column 11, lines 24-32 and 43-44) and Woods (Figures 6 and 12-13; column 5, lines

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39-56; column 7, lines 28-33; column 8, lines 1-3), and this would ensure that only the raised portions of the nonwoven of Todt would have adhesive applied thereto.

One would appreciate that the pattern on the gravure roller would have to comprise a plurality of spaced-apart parallel grooves that extend completely around the circumference of the roller so that adhesive is only applied to the raised portions of the nonwoven of Todt; therefore, it is noted that Woods teaches such a gravure roller being known in the art (Woods teaches gravure roller 74 as shown in Figure 6 forms adhesive strips 134 separated by non-adhesive strips 136 on substrate 88 as shown in Figures 12-13).

Regarding claim 17, Todt teaches applying the adhesive to the nonwoven (p. 5, lines 1-4; p. 6, lines 12-15).

Regarding claim 18, Todt teaches the film and nowoven being intermittently bonded (p. 5, lines 1-18).

Regarding claim 19, Todt teaches the film being a shrinkable stretchable thermoplastic film (p. 4, lines 17-26).

### ***Response to Arguments***

9. Applicant's arguments filed 3/22/06 have been fully considered but they are not persuasive.

10. On p. 9-10 of the remarks, Applicant argues that Todt teaches application of an adhesive to the raised portions of the nonwoven fabric resulting from the randomly arranged fibers thereof but in no way suggests applying the adhesive in a pattern.

The examiner is invited to reread the rejection set forth in paragraph 6 above where it is clearly established that Todt teaches applying the adhesive in a pattern. To reiterate, Todt

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teaches applying the adhesive to only the raised portions of the nonwoven fabric thereby creating adhesive and non-adhesive areas on the nonwoven fabric (p. 5, lines 2-6), which clearly reads on Applicant's claimed 'predetermined pattern.' Whether the formation of the adhesive and non-adhesive portions of Todt is due to the arrangement of the fibers within the nonwoven or the configuration of the adhesive applicator is irrelevant since such an argument is not commensurate with the scope of the claimed invention. Furthermore, it is noted that contrary to Applicant's belief, Todt does not specifically teach the adhesive being applied only to the raised portions of the non-woven because of the arrangement of its fibers.

11. On p. 12 of the remarks, Applicant argues that by applying the adhesive in a patterned arrangement such that the adhesive occurs substantially along the raised portions of the nonwoven, as set forth in amended claims 14 and 34, it should be recognized that a certain percentage of the raised portions of the nonwoven fabric will not include any adhesive and therefore points of adherence between the nonwoven fabric and the film will be far fewer in number than when adhesive is applied over substantially all of the raised portions of the nonwoven in a sheet-like fashion.

This argument, particularly that relating to a certain percentage of the raised portions of the nonwoven fabric not including any adhesive and therefore points of adherence between the nonwoven fabric and the film being far fewer in number than when adhesive is applied over substantially all of the raised portions of the nonwoven, is not commensurate with the scope of the claimed invention.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JESSICA ROSSI  
PRIMARY EXAMINER

